

REMARKS

Claims 1, 6, 11, 16, 21, 52, 55, 57, and 62-76 were previously pending in this application. By this amendment, Applicant is amending claims 6 and 16 and canceling claims 69 and 70.

As a result, claims 1, 6, 11, 16, 21, 52, 55, 57, 62-68 and 71-76 are pending for examination with claims 1, 11, 21, and 68 being independent claims. Claims 6 and 16 have been amended to correct a typographical error and clarify claim language. Claims 69 and 70 have been canceled to advance prosecution. No new matter has been added.

Claim Rejections Under 35 U.S.C. §112

The Examiner rejected claims 1, 6, 11, 16, 21, 52, 55, 57, and 62-67 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Examiner alleges that there is no support in the originally filed claims or specification for the phrase “one or more” diabetic complications or for the specific range “between about 0.30 mg/dl and about 0.6 mg/dl”.

We disagree. The specification provides support for the phrase “one or more” diabetic complications. On page 6, lines 18-19, the specification recites: “The invention is thus useful in providing an earlier method of detection of diabetes or a diabetic complication...”. (Emphasis added). This language provides support for “one” diabetic complication.

On page 3, lines 22-24, the specification recites “Thus, according to one aspect of the invention, a method for evaluating the likelihood that an individual will benefit from treatment with an agent for reducing the risk of diabetes or reducing the risk of diabetic complications is provided”. (Emphasis added). This language provides support for “more” (than one) diabetic complications. Thus, the specification provides support for the phrase “one or more” diabetic complications.

The specification also provides support for the range “between about 0.30 mg/dl and about 0.6 mg/dl”. The support for the aforementioned CRP range may be found in Table 3 on page 37. The range of CRP (in mg/dl) of the third quartile is indicated to be “(0.27 – 0.61)” which corresponds to a range “between about 0.30 mg/dl and about 0.6 mg/dl”. Having said

that, the only two claims (claims 69 and 70) that refer to a range "between about 0.30 mg/dl and about 0.6 mg/dl" have been canceled rendering this rejection moot.

In view of the above arguments and amendments, withdrawal of the claim rejections under 35 U.S.C. 112, first paragraph is kindly requested.

Claim Rejections Under 35 U.S.C. §102

The Examiner rejected claims 69 under 35 U.S.C. 102(b) as being anticipated by Koenig et al.

Without conceding the correctness of the Examiner's position, Applicant has canceled claim 69 to overcome this rejection and to advance prosecution.

The Examiner rejected claims 69 and 70 under 35 U.S.C. 102(a) and (e) as being anticipated by US Patent 6,040,147.

Without conceding the correctness of the Examiner's position, Applicant has canceled claims 69 and 70 to overcome this rejection and to advance prosecution.

Applicant reserves the right to file one or more continuing applications directed to the subject matter of canceled claims 69 and 70.

In view of the above amendments withdrawal of the rejection of the claims under 35 U.S.C. §102 is respectfully requested.

Serial No.: 10/017,905
Conf. No.: 7653

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CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time.

If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
Ridker et al., Applicant

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Docket No.: B0801.70238US00
Date: May 24, 2006
x7/17/2006x